

Remarks

Claim 1, 7-10, and 21-25 are pending in the application. In the Office Action mailed December 23, 2009, the Examiner rejected claims 1, 7-10, and 21-25 under 35 U.S.C. § 112, second paragraph, as being indefinite and rejected claims 1, 7-10, and 21-25 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. Pub No. 2002/0116473 (hereinafter “*Gemmell*”) in view of U.S. Pat. No. 6,496,980 (hereinafter “*Tillman*”), U.S. Pat. No. 5,790,935 (hereinafter “*Payton*”) and U.S. Pat. No. 6,92,705 (hereinafter “*Chadda*”). In this Amendment, Applicants have amended claims 1, 7, 8 21 and 25.

Rejections Under 35 U.S.C. § 112

In the Office Action, the Examiner asserts that claims 1, 21, and 25 are indefinite because the disclosure requires that that video content is first compressed and then decomposed. Applicants respectfully disagree that the disclosure requires that video content is first compressed and then decomposed, and note that at least paragraph [0025] of the present application states that content files are decomposed using compression techniques. In this Amendment, Applicants have amended independent claims 1 and 25 to generally recite decomposing video content into a plurality of video quality portions during compression of the video content and amended independent claim 21 to generally recite means for decomposing compressed video content into a plurality of parts during compression of video content. Applicants request reconsideration in light of the amendments to the claims.

35 USC 103 (a) Rejections

The Examiner rejected claims 1, 3-4, 6-13, 15-17 and 21-25 under 35 USC 103(a) as being unpatentable over *Gummel* in view of *Tillman*, *Payton* and *Chadda*. Claims 1, 21 and 25 have been amended to generally recite sending a low-quality video portion and another video portion having different quality for a particular asymmetrical digital subscriber line bandwidth, the combination of which produce a different quality of video when combined at the subscriber terminal, which is not taught or suggested by the combination of *Gummel* in view of *Tillman*, *Payton* and *Chadda*.

In contrast, *Gummel* teaches a client based decision on downloading a quality level of video based on available bandwidth, rather than a server level decision based on assigned band width and quality of service assigned to the subscriber terminal.

Chadda fails to teach selecting dividing sub-bands into low quality and other quality video portions where each combination of the low quality and other quality video portions generates a different quality video commensurate with a quality of service assigned to a recipient subscriber terminal and fails to teach optimizing the portions to a bandwidth assigned to the subscriber terminal. *Chadda* sends video portions without regard to selecting combinations of video portions of varying quality based on available bandwidth.

Tillman teaches that asymmetric DSL was known at the time of the invention, but does not teach or suggest the recitations of independent claims 1, 21 and 25 as discussed above. *Tillman* sends video portions without regard to selecting combinations of video portions of varying quality based on available bandwidth.

Finally, *Payton* teaches allowing a user to select a quality of video but does not teach sending different quality video portions based on bandwidth assigned to the subscriber terminal and quality of service assigned to the subscriber terminal. Thus it is believed that claims 1, 21 and 25 are patentable over the combination of *Gummel* in view of *Tillman*, *Payton* and *Chadda*. It is further believed that claims 7-10 and 22-24 are also patentable over the combination of *Gummel* in view of *Tillman*, *Payton* and *Chadda* as discussed above. Applicants request reconsideration in light of the Amendments to the claims.

Conclusion

The claims have been amended to respond to the objections in the action. It is respectfully urged that in light of the above amendments and submissions that applicant's claims are patentable in light of the prior art. It is believed that the foregoing response is full, complete, and timely filed. Applicant respectfully requests reconsideration of the instant application in light of the foregoing response and amendments. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of the application, the Examiner is invited to contact the Applicants' representative by telephone at (713) 400-1100, fax, or email.

Respectfully submitted,



Date: April 23, 2010

G. Michael Roebuck
Reg. No. 35,662
Frost Bank Building, Suite 920
6750 West Loop South
Bellaire, Texas 77401
Telephone: 713-400-1100 X120
Facsimile: 713-400-1106
ATTORNEY FOR APPLICANT